IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

WA.No. 2511 of 2007

AGAINST THE JUDGEMENT IN WPC.25119/2007 Dated 18/08/2007

.....

APPELLANT: PETITIONER IN W.P(C):

T.K.MUHAMMED KUTTY,
S/O.KUNHAMUTTY,
AGED 44 YEARS, KUNNUMMAL HOUSE,
KOORAD P.O.,
MALAPPURAM DISTRICT.

BY ADV. SRI.DEVIDAS.U.K

RESPONDENTS: RESPONDENTS 1 TO 3 IN W.P(C):

---

1. THE KERALA STATE FINANCE ENTERPRISES LTD.
CORPORATE OFFICE, "BHADRATHA",
THRISSUR.

2. THE SPECIAL DEPUTY TAHSILDAR,
(REVENUE RECOVERY),
THE KERALA STATE FINANCE ENTERPRISES LTD.,
PALAKKAD.

3. VILLAGE OFFICER,
WANDOOR,
MALAPPURAM FDISTRICT.

R1 & R2 BY ADV. SRI.M.L.SAJEEVAN, SC, KSFE LTD.
R3 BY SENIOR GOVERNMENT PLEADER SMT.K.MEERA.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 21/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.M.JOSEPH, J.

W.A.No.2511 of 2007

Dated, this the 21st day of November, 2007

JUDGMENT

H.L.Dattu, C.J.

In the writ petition filed, the petitioner had called in question Ext.P7 notice issued by the respondent Financial Enterprises. In the said demand notice, the respondent had directed the petitioner to pay the amount due to the financial institution.

(2). After going through the pleadings and the orders passed by the learned Single Judge, it appears to us that, the petitioner is a chronic defaulter in paying the amounts due to the financial institution. On one pretext or the other, the petitioner was before this Court for certain reliefs. This Court had entertained the petitions and granted not only time for payment of the amount due to the financial institution but also instalment facilities. In spite of all that, the petitioner had not discharged his liability towards the financial institution.

(3). In our view, first and foremost, this type of writ petitions should not be encouraged by this Court. We say this for the reason, that the Apex Court in the case of ***U.P.Financial Corporation Vs. M/s.Gem Cap (India) Pvt. Ltd (AIR 1993 SC 1435)*** has stated that a writ Court can entertain a writ petition against a Corporation only under two circumstances. Firstly, if there is a violation of any statutory provision or the Corporation has acted

unfairly or unreasonably. While explaining the aforesaid concept, the Supreme Court has stated as under:

> *"In a matter between the Corporation and its debtor, a writ court has no say except in two situations: (1) there is a statutory violation on the part of the Corporation, or (2) where the Corporation acts unfairly i.e., unreasonably. Acting unfairly or unreasonably does not mean that the High Court exercising its jurisdiction under Art.226 of the Constitution can sit as an Appellate Authority over the acts and deeds of the corporation and seek to correct them. That is not the function of the High Court under Article 226. Doctrine of fairness, evolved in administrative law was not supposed to convert the writ courts into appellate authorities over administrative authorities. The constraints -- self-imposed undoubtedly -- of writ jurisdiction still remain. Ignoring them would lead to confusion and uncertainty. The jurisdiction may become rudderless."*

(4). In view of the said legal position, in our opinion, none of the reliefs sought for by the petitioner can be granted by this Court. Taking into consideration this aspect, the learned Single Judge has rightly rejected the writ petition. Therefore, the learned Judge has not committed any error, whatsoever, which would call for our interference. Accordingly, the appeal requires to be rejected and it is rejected.

(5). In view of the order passed in the writ appeal, I.A.No.865 of 2007 is rejected.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.M.JOSEPH)
JUDGE

MS/dk.